



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,113	03/06/2001	John C. Yundt-Pacheco	HEMA.71475	2746

27910 7590 03/16/2004

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY, MO 64106-2150

EXAMINER

THAI, HANH B

ART UNIT	PAPER NUMBER
----------	--------------

2171

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,113

Applicant(s)

YUNDT-PACHECO, JOHN C.

Examiner

Hanh B Thai

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed February 17, 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2171

This is in response to the amendment filed February 17, 2004 in which claims 1-8 are presented for examination.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed February 17, 2004 have been fully considered but they are not persuasive.

Applicant states on page 6, "French in general, do not disclose formatted data being stored for later extraction by a remote monitoring facility" Examiner respectfully disagrees.

French teaches in col.8, line 47 through col.9, line 15 and lines 56-63, the following;

"Prior to describing the preferred embodiment of an information system 10 constructed in accordance with the present invention, and the steps of methods carried out in such preferred embodiment, there will be provided some necessary background as to the construction and contents of exemplary reports and exemplary report recipients, to illustrate a typical application of the present invention in the context of a hospital or laboratory setting. FIG. 1 illustrates a generalized report 20 such as may be used by a hospital laboratory in reporting the results of medical tests. FIG. 1 also illustrates representational databases 16 maintained in a computer system constructed in accordance with the disclosed embodiment, having entries relating to physician identification, report destination and other information. In the preferred embodiment, **a plurality of interrelated databases are used to store and provide the information necessary for the distribution of hospital reports and other information.**

(4) Five databases 16 are illustrated in FIG. 1. **A physician name table 16a contains entries for names 41 of physicians, who may be intended recipients of reports distributed through the present invention, and hospital identification numbers 42 corresponding to each physician name entry. Preferably, variant spellings or identifiers of a particular physician are entered as individual entries in the physician name table 16a. Thus, as illustrated in FIG. 1, there are three entries for "Dr Smythe" in physician name table 16a., including "C. Smith" 43, "C. R. Smith" 44, and "Smythe" 45. In this example, all three of these entries have the same corresponding hospital identification number 46 for Dr. Smythe, indicating that all three variants correspond to the same individual report recipient. In this way, a report destined for Dr. Smythe is distributed as quickly as possible despite the variations in the spelling or identification of Dr. Smythe in the data field of the report.**

The physician profile table 16c also contains report destination information

Art Unit: 2171

such as facsimile transmission numbers or print codes corresponding to each physician entry in accordance with the physician's receipt preferences. Further, the physician profile table 16c includes statistical entries 66 for use in maintaining and servicing the disclosed embodiment, or for use in monitoring the types and number of reports distributed. “

Examiner maintains that above teaching by French clearly reads on the above claim limitation. From the above, it can be seen that the patient test reports are stored in databases or files in databases (16, Fig.2 and corresponding text, French) for extracting and monitoring by the remote physician (Fig.2, 80, French).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by French (U. S. Patent no. 5,437,024).

Regarding claim 1, French discloses a computer system (5, Fig. 2) having a laboratory information system application program (15, Fig. 2), an operating system (10, Fig.2) and a printer driver (76, Fig. 2), a method for formatting data from a group of laboratory instruments (15a-c, Fig. 2), the method comprising:

- Obtaining data indicative of outputs of the group of laboratory instruments by the laboratory information system application program (see Fig.2 and col.11, lines 41-57; col. 12, lines 60-63, French).

Art Unit: 2171

- transferring the data from the laboratory information system application program, to an operating system for printing (see col. 20. lines 43-52 and 65-67, French);
 - transferring the data, by the operating system, to the printer driver (see col. 12, line 57 to col. 13, line 9 and lines 19-24, French) ;
 - formatting the data, by the printer driver, into a format required by an external monitoring facility (see col. 11, lines 58-67, French); and
 - storing the formatted data in a file for extraction by the external monitoring facility (see col.8, line 47 through col.9, line 15 and lines 56-63, French).
1. Regarding claim 2, French discloses a computer system (5, Fig. 2) having a laboratory information system application program (15, Fig. 2), an operating system (10, Fig.2), a printer driver (76, Fig. 2) and a port monitor (70, Fig. 2), a method for formatting data from a group of laboratory instruments, the method comprising:
- Obtaining data indicative of outputs of the group of laboratory instruments by the laboratory information system application program (see Fig.2 and col.11, lines 41-57; col. 12, lines 60-63, French).
 - transferring the data, by the laboratory information system application program, to an operating system for printing (see col. 20. lines 43-52 and 65-67, French);
 - transferring the data from the operating system to the printer driver (see col. 12, line 57 to col. 13, line 9 and lines 19-24, French);
 - transferring the data from the printer driver to the port monitor (see col. 9, lines 56-62 and col. 10, lines 34-44, French);

- formatting of the data, by the port monitor, into a format required by an external monitoring facility (see col. 11, lines 58-67, French); and
 - storing the formatted data in a file for extraction by the external monitoring facility (see col.8, line 47 through col.9, line 15 and lines 56-63, French).
2. Regarding claims 3 and 4, French discloses a system for formatting laboratory instrument output data, the system comprising:
- A laboratory information system application program for receiving data out puts from one or more laboratory instruments (see Fig. 2 and col. 11, lines 41-67, French);
 - an operating system (see col. 16, lines 10-14) operable to run the laboratory information system application program and to provide centralized printing; and
 - a printer driver for receiving data to be printed and formatting the data according to a predetermined format (see col. 11, lines 41-46 and col. 13, lines 35-45, French).
3. Regarding claims 5 and 7, the format required for an external monitoring facility comprises a title portion and a data portion (see col.13, lines 50-57, French).
4. Regarding claims 6 and 8, the title portion comprises a field for material title, a field for material level, and a field for material lot number, and wherein the data portion comprises a field for date, a field for time, a field for test result, and a field for unit identifier (see Fig.4, French).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2171

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh B Thai whose telephone number is 703-305-4883. The examiner can normally be reached on 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Hanh Thai HT
Art Unit 2171
March 11, 2004

UYEN LE
PRIMARY EXAMINER